

**Changes to the Comprehensive Shoreland Protection Act**  
**RSA 483-B**  
**Session 2002**

Explanation:

Matter added to current law appears in ***bold italics***.

Matter removed from current law appears [~~in brackets and struck through~~.]

483-B:1 Purp ose. The general court finds that:

I. The shorelands of the state are among its most valuable and fragile natural resources and their protection is essential to maintain the integrity of public waters.

***I-a. A natural woodland buffer, consisting of trees and other vegetation located in areas adjoining public waters, functions to intercept surface runoff, wastewater, subsurface flow, and deeper groundwater flows from upland sources and to remove or minimize the effects of nutrients, sediment, organic matter, pesticides, and other pollutants and to moderate the temperature of the near-shore waters.***

II. The public waters of New Hampshire are valuable resources held in trust by the state. The state has an interest in protecting those waters and has the jurisdiction to control the use of the public waters and the adjacent shoreland for the greatest public benefit.

III. There is great concern throughout the state relating to the utilization, protection, restoration and preservation of shorelands because of their effect on state waters.

IV. Under current law the potential exists for uncoordinated, unplanned and piecemeal development along the state's shorelines, which could result in significant negative impacts on the public waters of New Hampshire.

483-B:2 Minimum Standards Required. To fulfill the state's role as trustee of its waters and to promote public health, safety, and the general welfare, the general court declares that the public interest requires the establishment of standards for the subdivision, use, and development of the shorelands of the state's public waters. The development standards provided in this chapter shall be the minimum standards necessary to protect the public waters of the state of New Hampshire. These standards shall serve to:

I. Further the maintenance of safe and healthful conditions.

II. Provide for the wise utilization of water and related land resources.

III. Prevent and control water pollution.

IV. Protect fish spawning grounds, aquatic life, and bird and other wildlife habitats.

V. Protect buildings and lands from flooding and accelerated erosion.

VI. Protect archaeological and historical resources.

VII. Protect commercial fishing and maritime industries.

VIII. Protect freshwater and coastal wetlands.

IX. Control building sites, placement of structures, and land uses.

X. Conserve shoreline cover and points of access to inland and coastal waters.

- XI. Preserve the state's lakes, rivers, estuaries and coastal waters in their natural state.
- XII. Promote wildlife habitat, scenic beauty, and scientific study.
- XIII. Protect public use of waters, including recreation.
- XIV. Conserve natural beauty and open spaces.
- XV. Anticipate and respond to the impacts of development in shoreland areas.
- XVI. Provide for economic development in proximity to waters.

483-B:3 Consistency Required.

- I. All state agencies shall perform their responsibilities in a manner consistent with the intent of this chapter. State and local permits for work within the protected shorelands shall be issued only when consistent with the policies of this chapter.
- II. When the standards and practices established in this chapter conflict with other local or state laws and rules, the more stringent standard shall control.
- III. All agricultural activities and operations in the state as defined in [RSA 21:34-a](#) and as governed by [RSA 430](#), including the use of animal manure, lime, wood ash, irrigation and the clearing of land for agricultural utilization, and other agricultural technologies, shall be exempt from the provisions of this chapter, provided such activities and operations are in conformance with the most recent best management practices determined by the United States Department of Agriculture Natural Resources Conservation Service, the United States Department of Agriculture Cooperative Extension Service and the department of agriculture. Persons carrying out such agricultural activities and operations in the protected shoreland shall work directly with the local representatives of the above agencies for their particular property.

483-B:4 Definitions. In this chapter:

- I. "Abutter" means any person whose property is located in New Hampshire and adjoins or is directly across the street or stream from the land under consideration by the local land use board. For purposes of receiving testimony only, and not for purposes of notification, the term "abutter" shall include any person who is able to demonstrate that his land will be directly affected by the proposal under consideration.
- II. "Accessory structure" means a structure, *as defined in paragraph XXII of this section*, ~~[detached from the primary building]~~ on the same lot and customarily incidental and subordinate to the primary ~~[building or use, such as a]~~ *structure, as defined in paragraph XIV of this section; or a use, including but not limited to paths, driveways, patios, any other improved surface, pump houses, gazebos, [or] woodsheds, garages, or other outbuildings.*
- III. "Basal area" means the cross sectional area of a tree measured at a height of 4-1/2 feet above the ground, usually expressed in square feet per acre for a stand of trees.
- IV. "Commissioner" means the commissioner of the department of environmental services or designee.
- V. "Department" means the department of environmental services.
- VI. "Disturbed area" means an area in which natural vegetation is removed, exposing the underlying soil.
- VII. "Ground cover" means any herbaceous plant which normally grows to a mature height of 4 feet or less.
- VIII. "Lot of record" means a *legally created* parcel, the plat or description of which has been recorded at the registry of deeds for the county in which it is located.

IX. "Major project" [Repealed 1994, eff. July 1, 1994]

X. "Municipality" means a city, town, village district if specifically authorized to zone by the legislature, or county in respect to unincorporated towns or unorganized places or any combination thereof pursuant to [RSA 53-A](#).

XI. "Natural Woodland Buffer" means a forested area consisting of various species of trees, saplings, shrubs, and ground covers in any combination and at any stage of growth.

XI-a. "Ordinary high water mark" means the line on the shore, running parallel to the main stem of the river, established by the fluctuations of water and indicated by physical characteristics such as a clear, natural line impressed on the immediate bank, shelving, changes in the character of soil, destruction of terrestrial vegetation, the presence of litter and debris, or other appropriate means that consider the characteristics of the surrounding areas. Where the ordinary high water mark is not easily discernible, the ordinary high water mark may be determined by the department of environmental services.

XII. "Person" means a corporation, company, association, society, firm, partnership or joint stock company, as well as an individual, a state, and any political subdivision of a state or any agency or instrumentality thereof.

XIII. "Primary building line" means a setback from the reference line.

XIV. "Primary structure" means a structure *as defined in paragraph XXII of this section* ~~[other than one which is used for purposes wholly incidental or]~~ *that is central to the fundamental use of the property and is not* accessory to the use of another structure on the same premises.

XV. "Protected shoreland" means, for natural, fresh water bodies without artificial impoundments, for artificially impounded fresh water bodies, and for coastal waters and rivers, all land located within 250 feet of the reference line of public waters.

XVI. "Public waters" shall include:

(a) All fresh water bodies listed in the [official list of public waters](#) published by the department pursuant to [RSA 271:20, II](#), whether they are great ponds or artificial impoundments.

(b) [Coastal waters](#), being all waters subject to the ebb and flow of the tide, including the Great Bay Estuary and the associated tidal rivers.

(c) Rivers, meaning all year-round flowing waters of fourth order or higher, as shown on the now current version of the U.S. Geological Survey 7 ½' topographic maps. Stream order shall be determined using the Strahler method, whereby the highest year-round streams in a watershed are first order streams, their juncture yields second order streams, the juncture of second order streams yields third order streams, et seq. A [listing of the streams of fourth order and higher](#) shall be prepared and maintained by the office of state planning and delivered to the commissioner 30 days after the effective date of this act.

XVII. "Reference line" means:

(a) For natural fresh water bodies without artificial impoundments, the natural mean high water level as determined by the department of environmental services.

(b) For artificially impounded fresh water bodies with established flowage rights, the limit of the flowage rights, and for water bodies without established flowage rights, the waterline at full pond as determined by the elevation of the spillway crest.

(c) For coastal waters, the highest observable tide line, which means a line defining the furthest landward limit of tidal flow, not including storm events, which can be recognized by indicators such as the presence of a strand line of flotsam and debris, the landward margin of salt tolerant vegetation, or a physical barrier that

blocks further flow of the tide.

(d) For rivers, the ordinary high water mark.

XVIII. "Removal or removed" means cut, sawed, pruned, girdled, felled, pushed over, buried, burned, killed or otherwise destructively altered.

XVIII-a. "Repeat violation" means a violation that occurs within 3 years of notification by the department of a prior violation, as defined in RSA 483-B:18, I, whether on the same site or by the same person or entity on a second site. Each day of continuing violation after notification of that violation shall be considered a repeat violation.

XVIII-b. "Repair" means work conducted to restore an existing, legal structure by partial replacement of worn, broken, or unsound parts or to fix a specific defect, during which all of the exterior dimensions are intact and remain so during construction.

***XVIII-c. "Replace in kind" means the substitution of a new structure for an existing legal structure, whether in total or in part, with no change in size, dimensions, footprint, interior square footage, and location, with the exception of changes resulting in an increase in the setback to public waters.***

***XVIII-d. "Replacement system" means a septic system that is not considered new construction under RSA 485-A:29-44 and rules adopted to implement it.***

XIX. "Residential unit" means a structure, or portion thereof, providing complete and independent living facilities, including permanent facilities for living, sleeping, eating, cooking, and sanitation which are used in common by one or more persons.

XX. "Sapling" means any woody plant which normally grows to a mature height greater than 20 feet and has a diameter less than 6 inches at a point 4-1/2 feet above the ground.

***XX-a: "Shoreland frontage" means the average of the distances of the actual natural shoreline footage and a straight line drawn between property lines.***

XXI. "Shrub" means any multi-stemmed woody plant which normally grows to a mature height of less than 20 feet.

XXII. "Structure" means anything built for the support, shelter or enclosure of persons, animals, goods, or property of any kind, as well as anything constructed or erected with a fixed location on or in the ground, exclusive of fences.

XXIII. "Subdivision" means subdivision as defined in [RSA 672:14](#).

XXIV. "Tree" means any woody plant which normally grows to a mature height greater than 20 feet and which has a diameter of 6 inches or more at a point 4-1/2 feet above the ground.

XXV. "Urbanization" means the concentrated development found in the sections of towns or cities where there has been an historic pattern of intensive building for commercial or industrial use, or mixed residential, commercial, and industrial use.

***XXVI. "Water dependant structure" means a structure that services and supports activities that require direct access to, or contact with the water, or both, as an operational necessity and that requires a permit under RSA 482-A, including but not limited to a dock, wharf, pier, breakwater, beach, boathouse, retaining wall, or launching ramp.***

483-B:5 Enforcement by Commissioner; Duties; Woodland Buffer.

I. The commissioner, with the advice and assistance of the office of state planning, department of resources and economic development and department of agriculture, shall enforce the

provisions of this chapter.

II. The commissioner or his designee may, for cause, enter upon any land or parcel at any reasonable time to perform oversight and enforcement duties provided for in this chapter.

III. Relative to Forest Inventory Plans [Repealed 1994, eff. July 1, 1994]

IV. To encourage coordination of state and local enforcement measures, the commissioner shall notify, at the time of issuance or filing, the local governing body of enforcement action undertaken by the state in respect to protected shoreland within the municipality by sending it copies of relevant administrative orders issued and pleadings filed.

V. The commissioner may issue an order to any person in violation of this chapter, of rules adopted under this chapter, or of any condition of a permit issued under this chapter.

#### 483-B:6 Prior Approval; Permits.

I. Within the protected shoreland, any person intending to:

(a) Engage in any earth excavation activity shall obtain all necessary local approvals in compliance with [RSA 155-E](#).

(b) Construct a water dependent structure, alter the bank, or construct or replenish a beach shall obtain approval and all necessary permits pursuant to [RSA 482-A](#).

(c) Install a septic system as described in [RSA 483-B:9, V\(b\)\(1\)-\(3\)](#) shall obtain all permits pursuant to [RSA 485-A:29](#).

(d) Conduct an activity resulting in a contiguous disturbed area exceeding 50,000 square feet shall obtain a permit pursuant to [RSA 485-A:17](#).

(e) Subdivide land [~~for residential or non-residential development~~] as described in [RSA 483-B:9, V\(d\) and \(e\)](#) shall obtain approval pursuant to [RSA 485-A:29](#).

II. In applying for these approvals and permits, such persons shall demonstrate to the satisfaction of the department that the proposal meets or exceeds the development standards of this chapter. The department shall grant, deny, or attach reasonable conditions to a permit listed in subparagraphs I(a)-(e), to protect the public waters or the public health, safety or welfare. Such conditions shall be related to the purposes of this chapter.

483-B:7 Reporting; On-Site Inspections; Local Participation. The department may devise a system whereby municipal officials may voluntarily assist with the permitting process under [RSA 483-B:6](#) and the subsequent enforcement of permit conditions, by performing certain reporting functions relative to on-site inspections. Utilization of such reports shall be at the department's discretion, but may, when appropriate, obviate the need for further on-site review by department staff.

#### 483-B:8 Municipal Authority.

I. Municipalities may adopt land use control ordinances relative to all protected shorelands which are more stringent than the minimum standards contained in this chapter.

II. Municipalities are encouraged to adopt land use control ordinances for the shorelands of water bodies and water courses other than public waters.

III. Municipalities in which protected shoreland is situated may enforce the provisions of this chapter by issuing cease and desist orders and by seeking injunctive relief or civil penalties as provided in [RSA 483-B:18, III\(a\) and \(b\)](#). Civil penalties and fines collected by the court shall be remitted within 14 days to the treasurer of the municipality prosecuting said violations, for the use of the municipality. Any municipality electing to enforce the provisions of this chapter shall send copies of any pleading to the attorney general at the time of filing.

IV. The authority granted to municipalities under this chapter shall not be interpreted to extend to [RSA 430:28-48](#).

V. Municipalities bordering the same water body are encouraged to employ jointly a single code enforcement officer to monitor compliance.

#### 483-B:9 Minimum Shoreland Protection Standards.

I. The standards in this section are designed to minimize shoreland disturbance so as to protect the public waters, while still accommodating reasonable levels of development in the protected shoreland. Development outside the protected shoreland shall conform to local zoning and local ordinances and shall not be subject to standards established in this chapter.

II. Within the protected shoreland the following restrictions shall apply:

(a) The establishment or expansion of salt storage yards, automobile junk yards, and solid or hazardous waste facilities shall be prohibited.

(b) [Primary structures](#) shall be set back behind the primary building line ***which is 50 feet from the reference line***. ~~[This line shall initially be set back 50 feet from the reference line. Upon the establishment of a shoreland building setback by a municipality, that standard, whether greater or lesser than 50 feet, shall define the primary building line in that municipality]~~

***Applicability. Municipalities having a setback of less than 50 feet prior to January 1, 2002 may maintain the defined primary building line in that municipality.***

(c) A [water dependent structure](#), meaning one which is a dock, wharf, pier, breakwater, or other similar structure, or any part thereof, built over, on, or in the waters of the state, shall be constructed only as approved by the department, pursuant to [RSA 482-A](#).

(d) No fertilizer, except limestone, shall be used within 25 feet of the reference line of any property. Twenty-five feet beyond the reference line, low phosphate, slow release nitrogen fertilizer or limestone, may be used on lawns or areas with grass.

III. Public water supply facilities, including water supply intakes, pipes, water treatment facilities, pump stations, and disinfection stations shall be permitted by the commissioner as necessary, consistent with the purposes of this chapter and other state law. Private water supply facilities shall not require a permit.

IV. The placement and expansion of public water and sewage treatment facilities shall be permitted by the commissioner as necessary, consistent with the purpose of this chapter and other state law.

IV-a. Hydro electric facilities, including, but not limited to, dams, dikes, penstocks, and powerhouses, shall be recognized as water dependent, and shall be permitted by the commissioner as necessary, consistent with the purposes of this chapter and other state law.

IV-b. Public utility lines and associated structures and facilities shall be permitted by the commissioner as



necessary, consistent with the purposes of this chapter and other state law.

IV-c. An existing solid waste facility which is located within 250 feet of the reference line of public waters under this chapter may continue to operate under an existing permit, provided it does not cause degradation to an area in excess of that area under permit.

IV-d. No solid waste facility shall place solid waste within 250 feet of the reference line of public waters under this chapter except as expressly permitted under RSA 483-B:9, IV-c. However, any solid waste facility may be allowed, subject to permitting conditions under [RSA 149-M:10](#), to erect accessory structures and conduct other activities consistent with the operation of the facility within 250 feet of the reference line of public waters under this chapter, such as filling, grading and installing monitoring wells and other drainage structures as is consistent with its solid waste permit as issued by the department of environmental services. Under no circumstances shall the toe of any slope encroach within 150 feet of the reference line.

V. The following minimum standards shall apply to the protected shoreland provided that forest management not associated with shoreland development or land conversion, and conducted in compliance with RSA 224-J:9; forestry involving water supply reservoir ~~watershed~~ management; or agriculture conducted in accordance with best management practices; shall be exempt from the provisions of this chapter.

(a) [Natural woodland buffer](#).

(1) Where existing, a natural woodland buffer shall be maintained within 150 feet of the reference line. The purpose of this buffer shall be to protect the quality of public waters by minimizing erosion, preventing siltation and turbidity, stabilizing soils, preventing excess nutrients and chemical pollution, maintaining natural water temperatures, maintaining a healthy tree canopy and understory, preserving fish and wildlife habitat, and respecting the overall natural condition of the protected shoreland.

(2) Within the natural woodland buffer of the protected shoreland under conditions defined in RSA 483-B:9, V, ***all of*** the following prohibitions and limitations shall apply:

(A) Not more than a maximum of 50 percent of the basal area of trees, and a maximum of 50 percent of the total number of saplings shall be removed for any purpose in a 20-year period. A healthy, well-distributed stand of [trees](#), [saplings](#), [shrubs](#), ground cover, and their living, undamaged root systems shall be left in place. ~~[Replacement planting with native or naturalized species may be permitted to maintain the 50 percent level.]~~

~~(B) Relative to pre-project inventory and forest inventory plans. [Repealed 1992, eff. Jan. 1, 1993].~~

***(B) Any person applying to the department for a septic system construction approval or alteration of terrain permit pursuant to RSA 485-A, or an excavating and dredging permit pursuant to RSA 482-A, within the protected shoreland shall include photographic documentation of the natural woodland buffer.***

***(C) Structures, as defined in RSA 483-B:4, XXII, within the natural woodland buffer shall be afforded an opening for building construction that shall be excluded when computing the percentage limitations under subparagraph (a)(2)(A).*** ~~[Trees, saplings, shrubs and ground covers which are removed to clear an opening for building construction, accessory structures, septic systems, roadways, pathways, and parking areas shall be excluded when computing the percentage limitations under subparagraph (a)(2)(A)].~~

(D) Dead, diseased, unsafe, or fallen trees, saplings, shrubs, or ground cover may be removed. Their removal shall not be used in computing the percentage limitations under subparagraph (a)(2)(A).

(E) Stumps and their root systems which are located within 50 feet of the reference line, shall be left intact in the ground, unless removal is specifically approved by the department, pursuant to RSA

482-A.

(F) ***Preservation of*** dead and living trees that provide dens and nesting places for wildlife ~~[are]~~ is encouraged ~~[to be preserved]~~.

(G) Planting efforts that are beneficial to wildlife are encouraged ~~[to be undertaken]~~.

(b) Septic Systems.

(1) All new lots, including those in excess of 5 acres, created within the protected shoreland are subject to subdivision approval by the department of environmental services under [RSA 485-A:29](#).

(2) The following conditions, based on the characteristics of the receiving soil as they relate to U.S. Department of Agriculture, Natural Resources Conservation Service drainage classes, shall dictate the setback requirements for all new leaching portions of new septic systems, as follows:

(A) Adjacent to ponds, lakes, estuaries and the open ocean.

(i) Where the receiving soil downgradient of the leaching portions of a septic system is a porous sand and gravel material with a percolation rate equal to or faster than 2 minutes per inch, the setback shall be at least 125 feet from the reference line;

(ii) For soils with restrictive layers within 18 inches of the natural soil surface, the setback shall be at least 100 feet from the reference line; and

(iii) For all other soil conditions, the setback shall be at least 75 feet from the reference line.

(B) Adjacent to rivers the setback shall be no less than 75 feet~~[-and may be greater if approved by the commissioner]~~.

(3) The placement of all septic tanks and leaching portions of septic systems for replacement systems shall comply with the requirements of subparagraph (b)(2), to the maximum extent feasible.

(c) Erosion and siltation.

(1) All new structures, ***modifications to existing structures, and excavation or earth moving*** within protected shoreland shall be designed and constructed in accordance with rules adopted by the department ~~[pursuant to]~~ under 541-A:17, relative to terrain alteration under [RSA 485-A:17](#), ***to manage stormwater and control erosion and sediment*** ~~[for controlling erosion and siltation of public waters]~~, during and after construction.

(2) New structures ***and all modifications to existing structures*** within the protected shoreland shall be designed and constructed to prevent the release of surface runoff across exposed mineral soils.

(3) A permit pursuant to [RSA 485-A:17](#), I shall be required for improved, developed, or subdivided land ~~[within protected shoreland]~~ whenever there is a contiguous disturbed area exceeding 50,000 square feet ***that is either partially or wholly within protected shoreland***.

(d) Minimum lots and residential development in the protected shoreland:

(1) The minimum size for new lots in areas dependent upon on-site septic systems shall be determined by soil type lot size determinations, as established by the department of environmental services ***under RSA 485-A and rules adopted to implement it***.

(2) For projects in areas dependent upon on-site sewage and septic systems, the total number of [residential units](#) in the protected shorelands, whether built on individual lots or grouped as cluster or condominium development, shall not exceed:

(A) One unit per 150 feet of shoreland frontage; ***or***



***(B) For any lot that does not have direct frontage, one unit per 150 feet of lot width as measured parallel to the shoreland frontage that lies between the lot and the reference line.***

***(3) No lot dependent upon an on-site septic system, having frontage on public waters, shall be created with less than 150 feet of shoreland frontage.***

([3] 4) Lots in areas serviced by municipal sewers shall conform to municipal minimum lot standards, and shall not be subject to any shoreland frontage requirement, except as provided by municipal standards.

([4] 5) Lots and residential units outside of the protected shoreland shall not be subject to this chapter.

(e) Minimum lots and non-residential development. In the protected shoreland:

(1) The minimum size for new non-residential lots in areas dependent upon

on-site septic systems shall be determined by soil type lot size determinations, as set forth under rules adopted pursuant to [RSA 541-A](#).

(2) Non-residential development requiring on-site water, [and] sewage ***and septic systems*** shall not be constructed on lots less than 150 feet in width.

(3) Non-residential lots in areas serviced by municipal sewers shall conform to municipal minimum lot standards.

(4) Non-residential lots outside of the protected shoreland shall not be subject to this chapter.

(f) Common owners and residential or non-residential development. In the protected shoreland, waterfront parcels held in common by one or more owners of contiguous interior parcels may be developed but only in a manner consistent with the provisions of this chapter. Care shall be taken for the adequate provisions of parking, toilet facilities, and related support systems to minimize the project's impact on the public waters.

(g) The commissioner shall have the authority to grant [variances](#) from the minimum standards of this section. Such authority shall be exercised subject to the criteria which govern the grant of a variance by a zoning board of adjustment under [RSA 674:33, I\(b\)](#).

483-B:10 Nonconforming Lots of Record. Nonconforming, undeveloped lots of record that are located within the protected shoreland shall comply with the following restrictions, in addition to any local requirements:

I. Except when otherwise prohibited by law, present and successive owners of an individual undeveloped lot may construct a single family residential dwelling on it,

Notwithstanding the provisions of this chapter. Conditions may be imposed which, in the opinion of the commissioner, more nearly meet the intent of this chapter, while still accommodating the applicant's rights.

II. Building on nonconforming lots of record shall be limited to single family residential structures and related facilities, including, but not limited to docks, piers, boathouses, boat loading ramps, walkways, and other water dependent structures, consistent with state law.

483-B:11 Nonconforming Structures.

I. Except as otherwise prohibited by law, [~~pre-existing~~] nonconforming structures, ***erected prior to July 1, 1994***, located within the protected shoreland may be repaired, [~~improved~~] ***renovated***, or [~~expanded~~] ***replaced in kind using modern technologies, provided the result is a functionally equivalent use. Such repair***

***or replacement may alter the interior design or existing foundation, but no expansion of the existing footprint or outside dimensions shall be permitted.*** An expansion that increases the sewerage load to an on-site septic system, ~~[for example, additional bedrooms,]~~ ***or changes or expands the use of a septic system or converts a structure to condominiums or any other project identified under RSA 485-A:29-44 and rules adopted to implement it*** shall require approval by the department. Between the primary building line and the reference line, no alteration shall extend the structure closer to the public water, except that the addition of ~~[an open]~~ ***a deck or open*** porch is permitted up to a maximum of 12 feet towards the reference line.

II. When reviewing requests for the redevelopment of sites that ~~[currently]~~ contain nonconforming structures ***erected prior to July 1, 1994***, the commissioner shall review proposals which are more nearly conforming than the existing structures, and may waive some of the ~~[existing]~~ standards ***specified in RSA 483-B:9***, so long as there is at least the same degree of protection provided to the public waters. ***For the purposes of this section, a proposal that is “more nearly conforming” means a proposal for significant changes to the location or size of existing structures that bring the structures to greater conformity, or a proposal for changes to other aspects of the property, including but not limited to stormwater management, wastewater treatment or traffic volume or flow, or both types of proposal which significantly improve wildlife habitat or resource protection.***

#### 483-B:12 Shoreland Exemptions.

I. The governing body of a municipality may, in its discretion, request the commissioner to exempt all or a portion of the protected shoreland within its boundaries from the provisions of this chapter if the governing body finds that special local urbanization conditions exist in the protected shoreland for which the exemption is sought.

II. If the governing body of a municipality requests such an exemption, it shall submit evidence of existing and historical patterns of building and development in the protected shoreland. Such evidence shall address:

- (a) Current and past building density.
- (b) Commercial or industrial uses.
- (c) Municipal or other public utilities.
- (d) Current municipal land use regulations which affect the protected shoreland.
- (e) Any other information which the commissioner may reasonably require.

III. With the advice of the office of state planning, the commissioner shall approve or deny the request for an exemption and shall issue written findings in support of his decision. A request for an exemption shall be approved only if the municipality demonstrates, using the evidence required under paragraph II, that special conditions of urbanization exist along the portion of shoreland to be exempted.

IV. The state port authority may request an exemption under this section for all or a portion of any land purchased, leased, or otherwise acquired by it pursuant to [RSA 271-A](#).

#### 483-B:13 Public Hearing and Notice to Abutter. [Repealed 1992, eff. Jan. 1, 1993]

483-B:14 Rehearings and Appeals. Where the requirements of this chapter amend the existing statutory authority of the department or other agencies relative to certain established regulatory programs and shall be enforced under these established regulatory programs, the existing procedures governing contested cases and hearings and appeals regarding these requirements shall apply. Where requirements of this chapter are new and do not amend existing statutory authority relative to any established regulatory programs, the procedures set forth in [RSA 541-A:31](#) for contested cases shall apply.

483-B:15 Gifts, Grants and Donations. The department is authorized to solicit, receive, and expend any gifts, grants, or donations made for the purposes of this chapter. Gifts of land or easements shall be assigned to the department of resources and economic development for management or assignment to another state agency or other public body, as appropriate.

483-B:16 Assistance to Municipalities; Office of State Planning. The office of state planning may assist municipalities with the implementation of local ordinances under this chapter, upon the request of an individual municipality.

483-B:17 Rulemaking. The commissioner shall adopt rules, pursuant to [RSA 541-A](#), relative to:

I. The content and structure of all forms, applications and permits to be received or issued by the department under this chapter, including information and other materials to be submitted by

an applicant.

II. Procedures for filing and review of requests for urbanized shoreland exemptions and

standards for granting urbanized shoreland exemptions, including the time frames for decisions.

III. Enforcement of the minimum shoreland standards, including methods and timing of inspection and coordination with municipalities.

IV. Procedures and criteria for the placement of small accessory structures such as storage sheds and gazebos, the size, placement, and construction of which is consistent with the intent of this chapter, between the reference line and the primary building line.

V. Criteria governing the assessment of administrative fines.

VI. Criteria governing low phosphate, slow release nitrogen fertilizer.

***VII. Criteria governing maintaining a healthy, well-distributed stand of trees, saplings, shrubs and ground covers.***

***VIII. A methodology for identifying unsafe trees.***

***IX. Defining the opening for building construction.***

***X. Definitions of terms not defined in this chapter.***

483-B:18 Penalties.

I. The following shall constitute a violation of this chapter:

(a) Failure to comply with the provisions of this chapter.

(b) Failure to obey an order of the commissioner or a municipality issued relative to activities regulated or prohibited by this chapter.

(c) Misrepresentation by any person of a material fact made in connection with any activity regulated or prohibited by this chapter.

II. Any person who violates this chapter and any person who purchases land affected by a violation of this chapter who knew or had reason to know of the violation shall be liable for remediation or restoration of the land affected.

III. Persons violating the provisions of this chapter shall be subject to the following:

(a) Upon petition of the attorney general or of the municipality in which the violation occurred, the superior court may levy upon any person violating this chapter a civil penalty in an amount not to exceed \$20,000 for each day of each continuing violation. The superior court shall have jurisdiction to restrain a continuing violation of this chapter, and to require remediation.

(b) Any person who knowingly violates any provision of this chapter, or any rule adopted or order issued under this chapter or any condition of any permit issued under this chapter shall be guilty of a misdemeanor if a natural person, or guilty of a felony if any other person, and, notwithstanding [RSA 651:2](#), may in addition to any sentence of imprisonment, probation or conditional discharge, be fined not more than \$20,000 for each violation if found guilty pursuant to this section. Each day of violation shall constitute a separate offense.

(c) The commissioner, after notice and hearing pursuant to [RSA 541-A](#), [~~may~~] **shall** impose an administrative fine of up to \$5,000 for each offense upon any person who violates this chapter. Rehearings and appeals relating to such fines shall be governed by [RSA 541](#). Imposition of an administrative fine under this section shall not preclude the imposition of further civil or criminal penalties under this chapter.

(d) Notwithstanding of the \$5000 fine limit in subparagraph (c), the administrative fine for each repeat violation of this chapter may be multiplied by a factor of 2 for every previous violation committed by the person or entity.

483-B:19 Applicability.

***I. Subject to paragraph II***, the provisions of this chapter shall not apply to any applicant whose land is in a municipality that has adopted a shoreland protection ordinance under [RSA 674:16](#), the

provisions of which are at least as stringent as similar provisions in this chapter. The director of the office of state planning shall certify to the commissioner that the provisions of a local ordinance are at least as stringent as similar provisions in this chapter.

***II. If a municipality has a local ordinance that does not contain a counterpart to all of the provisions of this chapter, the more stringent provisions shall apply.***

483-B:20 Designated Rivers. The provisions of this chapter shall not apply to rivers or river segments designated by the general court and approved for management and protection under RSA 483 prior to January 1, 1993 ***with the exception of the Connecticut River.***